

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

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STATE OF TENNESSEE, *ex rel.*  
ROBERT E. COOPER, JR., ATTORNEY  
GENERAL and REPORTER,

Plaintiff,

v.

ELMER VIRULA, individually and doing  
business as TPS TAX PROFESSIONAL  
SERVICES, INC., and OFFICE  
PROFESSIONAL SERVICES, INC.; TPS  
TAX PROFESSIONAL SERVICES, INC.,  
a Tennessee corporation; and OFFICE  
PROFESSIONAL SERVICES, INC.,  
a Tennessee corporation,

Defendants.

No. \_\_\_\_\_

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STATE OF TENNESSEE'S  
MOTION FOR STATUTORY TEMPORARY INJUNCTION

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The State of Tennessee ("State"), by and through Robert E. Cooper, Jr., Attorney General and Reporter, and at the request of Mary Clement, Director of the Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance, moves this Court pursuant to Tenn. Code Ann. § 47-18-108(a) of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*, and pursuant to Tenn. Code Ann. § 23-3-103(c)(1) and (c)(3) of the Unauthorized Practice and Improper Conduct Statutes, Tenn. Code Ann. § 23-3-101 *et seq.*, for a

statutory injunction temporarily enjoining Defendants Elmer Virula, TPS Tax Professional Services, Inc. and Office Professional Services, Inc., any and all officers, directors, employees, agents, parents, affiliates, successors and assigns, and other persons in active concert or participation with Defendants who receive notice of the temporary injunction, from engaging, directly or indirectly, in any acts which are unlawful, misleading, unfair or deceptive to consumers or other persons, including but not limited to the following:

- (1) Defendants shall be strictly prohibited from engaging in the practice of law or law business in the State of Tennessee.
- (2) Defendants shall be strictly prohibited from violating the Unauthorized Practice and Improper Conduct statutes, Tenn. Code Ann. § 23-3-101 *et seq.*
- (3) Defendants shall be strictly prohibited from engaging in any unfair or deceptive acts or practices in the conduct of trade or commerce and shall fully comply with all applicable provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*
- (4) Defendants shall be strictly prohibited from violating the Notaries Public statute, Tenn. Code Ann. § 8-16-401 *et seq.*

Without limiting the scope of paragraphs (1)-(4) above,

- (5) Defendants shall be strictly prohibited from representing in any manner from or within Tennessee or to Tennessee consumers that Defendant Elmer Virula is a certified public accountant if Defendant Virula is not a certified public accountant in the State of Tennessee in good standing at the time of making the representation.
- (6) Defendants shall be strictly prohibited from, directly or indirectly, representing, stating, promoting, advertising, claiming or implying that Defendant Virula is an “attorney,” “attorney at law,” “lawyer,” “licenciado,” or term or phrase of similar import, if Defendant Virula does not possess a valid license to practice law in the State of Tennessee in good standing at the time of making the representation.
- (7) Defendants shall be strictly prohibited from making or preparing any filings to be used in any court in the State of Tennessee on behalf of any person or business.

- (8) Defendants shall be strictly prohibited from representing from or within Tennessee or to Tennessee consumers that Defendant Elmer Virula or any employees or agents of Defendant(s)' companies can appear as an advocate in any representative capacity before any court, commission, referee or any body, board, committee or commission constituted by law or having authority to settle controversies or soliciting clients directly or indirectly to provide such services if such an individual is not licensed to practice law in good standing in Tennessee.
- (9) Defendants shall be strictly prohibited from giving any legal advice or counseling regarding any secular law topic including but not limited to immigration, marriage, divorce, and taxes.
- (10) Defendants shall be strictly prohibited from misleading consumers in any way, including but not limited to representations regarding the legality of certain actions and the qualifications of Defendant Elmer Virula.
- (11) Defendants shall be strictly prohibited from falsifying any government documents, including but not limited to marriage licenses.
- (12) Defendants shall be strictly prohibited from creating or producing in any manner any documents which purport to be issued by a governmental agency or entity.
- (13) Defendants shall be strictly prohibited from representing or implying they/he can offer marriage licenses to consumers if they legally can not.
- (14) Defendants shall be strictly prohibited from advertising, promoting or offering for sale any "marriage license" or "marriage certificate" (or term or phrase of similar import) in the State of Tennessee or in whole or in part from Tennessee or to any Tennessee consumer.
- (15) Defendants shall be strictly prohibited from stating a consumer has been married at a particular location or address when such is not the case.
- (16) Defendants shall be strictly prohibited from advertising as a "Ontario public" or a "notarial publica" (or term or phrase of similar import) without a disclaimer of conspicuous size in Spanish and English stating the following: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF TENNESSEE, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."
- (17) Defendants shall be strictly prohibited from advising or assisting in selecting or completing forms affecting or relating to a person's immigration status without a license to practice law in Tennessee.

- (18) Defendants shall be strictly prohibited from representing or advertising that the notary public is an immigration consultant, immigration paralegal, or expert on immigration matters unless the Defendant is an accredited representative of an organization recognized by the board of immigration appeals pursuant to 8 CAR § 292.2(a-e) or any subsequent federal law.
- (19) Defendants shall be strictly prohibited from accepting or depositing into his and/or their accounts any monies from any person for legal services, marriages, marriage certificates or licenses, or accounting services to be performed by Defendants.
- (20) Defendants shall place any money received prior to this Order for legal services, marriages, marriage certificates or licenses, or accounting services from any consumer in an escrow account at a bank of Defendants' choosing to be held until an order granting or denying restitution for consumers is entered.
- (21) Defendants shall be strictly prohibited from transferring or otherwise removing any assets or monies from his or their offices or any bank accounts that contain funds relating to his/their representations of persons as an attorney or certified public accountant, or relating to marriages, marriage certificates or marriage licences and/or any escrow-type funds. Further, within five (5) days of entry of this Court's Order, Defendants shall be required to affirmatively provide the Court and the State with an accounting of all assets in his/their possession relating to his/their representation of clients and a list of all bank accounts and the amounts in those accounts.
- (22) Defendants shall be prohibited from representing or implying to a consumer that they will receive goods or services and then fail to deliver those goods or services within the time frame promised or promoted.
- (23) Defendants shall be required to affirmatively maintain and protect any documents or records relating to any legal services, accounting services, or marriages.

The State also requests that this Court order Defendants to turn over and/or provide all consumer records, files and documents of Defendants relating to Tennessee consumers or any consumers who retained Defendants' services in whole or in part in the State of Tennessee to Charlie Shined, Investigator, or other designed, by delivering the files and/or documents during regular business hours between 8:00 a.m. and 4:30 p.m. (Central) to the Investigative Services Unit, Tennessee Attorney General's Office, 425 Fifth Avenue North, Nashville, Tennessee 37243

by no later than five (5) days following entry of the Court's Order. To protect the privacy of consumers in these records, the State requests that the Court order that all personally identifiable information contained in these records shall be treated as confidential.

Further, the State requests this Court issue an order requiring Defendants to provide the Court, and a copy to Plaintiff's counsel, a detailed accounting of all assets in Defendants' possession relating to Defendants' businesses and a list of all bank accounts, bank addresses, bank telephone numbers, bank contact names, bank account numbers, and the amounts currently held in those accounts and held since the date Defendants commenced trade or commerce in the state of Tennessee as of the date of the Court's Order by no later than five (5) days after entry of the Court's Order. Said accounting shall be provided along with a sworn affidavit of an officer of each of the Defendants confirming their accuracy and completeness and shall be filed with the Court. Further, a copy (or copies) shall be provided in the same time frame to Charlie Shinn, Investigator, or other designee, by delivering the accounting and sworn statement during regular business hours between 8:00 a.m. and 4:30 p.m. (Central) to the Investigative Services Unit, Tennessee Attorney General's Office, 425 Fifth Avenue North, Nashville, Tennessee 37243.

The State requests this Court set a hearing immediately following the time period for Defendants to produce financial information to determine whether monies should be placed into a court account for possible consumer restitution pending a final determination in this matter.

The State requests that any order issued by the Court expressly reserve for a future hearing a determination regarding the appointment of a receiver for the safekeeping, collection, management, and disposition of property in this litigation.

The State requests that Defendants should be ordered to pay all court costs associated with the State's Motion for Temporary Injunction and related order and hearing. No costs shall be taxed to the State as provided by Tenn. Code Ann. § 47-18-108(a)(4).

The State requests that any order issued by the Court expressly reserves for a future hearing a determination regarding an attorneys' fees and costs award to the State relating to the State's Motion for Temporary Injunction, the related hearing, and any order.

In support of this Motion, the State relies upon the contemporaneously filed Memorandum of Facts and Law in Support of Motion for Temporary Injunction, the Complaint, the Exhibits attached to the Complaint:

**Exhibit A:** Affidavit of Mary Clement, Director of the Division of Consumer Affairs

**Exhibit B:** a true and exact copy of the business card distributed by Defendants

**Exhibit C:** a true and exact copy of a flyer distributed by Defendants

**Exhibit D:** a true and exact copy of consumer A.R.'s purported marriage certificate

**Exhibit E:** a true and exact copy of consumer J.E.M.-P's purported marriage certificate

and the Exhibits attached to this Motion:

**Exhibit A:** Affidavit of Jeremy Harwell

**Exhibit B:** Affidavit of Adele Anderson

**Exhibit C:** Affidavit of Becky Rhodes

**Exhibit D:** Affidavit of Mark Crocker

**Exhibit E:** Affidavit of Ms. A. R. (Consumer)

**Exhibit F:** Affidavit of Mrs. Y.L. (Consumer)

**Exhibit G:** Affidavit of Mrs. U.T. (Consumer)

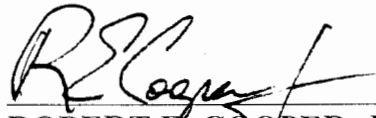
**Exhibit H:** Affidavit of Ms. J.E.M.-P (Consumer)

**Exhibit I:** Affidavit of Mrs. P.B. (Consumer)

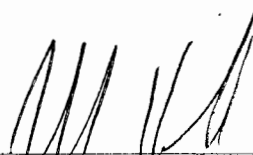
These Exhibits demonstrate that the State has shown a likelihood of success on the merits of its action, and a statutory injunction should issue without bond.

**THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF  
FILED BY THE PLAINTIFF IN THIS CASE.**

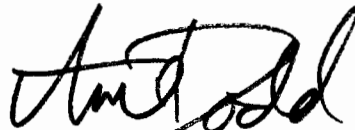
Respectfully submitted by:



**ROBERT E. COOPER, JR.**  
Attorney General & Reporter  
B.P.R. No. 10934



**JEFFREY L. HILL**  
Senior Counsel  
B.P.R. No. 16731



**ANNE DODD**  
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Facsimile: (615) 532-2910



**CERTIFICATE OF SERVICE**

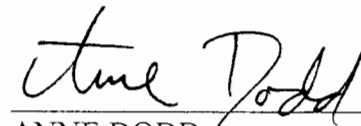
I, Anne Dodd, do hereby certify that the foregoing document will be served on Defendants via personal service to:

Elmer Virula  
4733 Billingsgate Road  
Antioch, Tennessee 37013

TPS Tax Professional Services  
86 Thompson Lane  
Nashville, Tennessee 37210

Office Professional Services  
Attn: Elmer Virula  
2179 Nolensville Pike  
Nashville, Tennessee 37211

on this the 29 day of February, 2008.

A handwritten signature in cursive script, reading "Anne Dodd", written over a horizontal line.

ANNE DODD  
Assistant Attorney General